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23 *Attorneys for Involuntary Plaintiff Thales Visionix, Inc*

24 UNITED STATES DISTRICT COURT
25 NORTHERN DISTRICT OF CALIFORNIA

26 GENTEX CORPORATION and INDIGO
27 TECHNOLOGIES, LLC,

28 Plaintiffs,

1 THALES VISIONIX, INC.,

2 Involuntary Plaintiff,
3 v.
4 META PLATFORMS, INC., and META
5 PLAINTFORM TECHNOLOGIES, LLC,

6 Defendants.

7 Case No.: 4:22-cv-03892-YGR

8 INVOLUNTARY PLAINTIFF THALES
9 VISIONIX, INC.'S ADMINISTRATIVE
10 MOTION TO SEAL PORTIONS OF SUR-
11 REPLY TO JOINT MOTION TO DISMISS

12 Date: February 27, 2024

13 Time: 2:00 p.m.

14 Location: Courtroom 1, 4th Floor

15 Judge: Hon. Yvonne Gonzalez Rogers

1 Pursuant to Civil Local Rules 7-11 and 79-5(d) and (e), Involuntary plaintiff Thales Visionix,
 2 Inc. (“Thales”) hereby moves for an order sealing certain portions of Involuntary Plaintiff’s Sur-
 3 Reply to the Joint Motion to Dismiss.

4 When considering a motion to seal, the Court must “conscientiously balance the competing
 5 interests of the public and the party who seeks to keep certain judicial records secret.” *Ctr. For Auto
 6 Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1097 (9th Cir. 2016) (cleaned up). Where, as here, the
 7 motion is only tangentially related to the merits of the case, a “particularized showing” under the
 8 good cause standard of Rule 26(c) suffices to grant a motion to seal. *See id.* at 1099; *Kamakana v.
 9 City & Cnty. of Honolulu*, 447 F.3d 1172, 1179-80 (9th Cir. 2006); *Exeltis USA Inc. v. First
 10 Databank, Inc.*, 2020 WL 2838812, at *1 (N.D. Cal. June 1, 2020). Courts routinely conclude that
 11 “confidential business information” in the form of ‘license agreements, financial terms, details of
 12 confidential licensing negotiations, and business strategies” satisfy the good cause or compelling
 13 reasons standard for sealing. *Exeltis*, 2020 WL 2838812, at *1; *In re Qualcomm Litig.*, 2017 WL
 14 5176922, at *2 (S.D. Cal. Nov. 8, 2017).

16 Portions of the Sur-Reply refer to Exhibits A and B to Meta’s and Gentex’s Joint Motion to
 17 Dismiss (Dkt. No. 137-3), as well as to communications between Thales and Gentex that are subject
 18 to Federal Rule of Evidence 408 and which may be subject to a common interest privilege. Exhibit A
 19 to the Joint Motion is a copy of a Settlement Agreement between Gentex and Meta dated January 9,
 20 2024. Dkt. No. 137-4. Exhibit B to the Joint Motion is a Term Sheet that was signed by Gentex,
 21 Meta, and Thales and then rescinded by Thales. Dkt. No. 137-5. The parties have previously moved
 22 to maintain Exhibits A and B under seal, as well as settlement negotiations between the parties,
 23 because they reflect their confidential business information. *See, e.g.*, Dkt. Nos. 137, 140, 145-1,
 24 152.

25 As previously explained in Thales’s motion to seal portions of its Response, the Agreement,
 26 Term Sheet, and communications between Thales and Gentex consist of confidential business
 27 information of the parties, and portions of the Sur-Reply, highlighted in yellow in the version filed
 28

1 under seal, quote from or discuss the confidential terms of the Settlement Agreement, Term Sheet,
2 and 2012 License Agreement. Tauger Decl. ¶ 4.

3 Accordingly, Thales respectfully requests that the Court seal portions of its Sur-Reply
4 highlighted in yellow.

5 This 14th day of February 2024.

6 Respectfully submitted,

7 /s/ Paul N. Tauger

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Counsel for Involuntary Plaintiff
Thales Visionix, Inc.

SIGNATURE ATTESTATION

Pursuant to Local Rule 5-1(i)(3), I hereby attest that concurrence in the filing of this document has been obtained from the other signatories.

Dated: February 14, 2024

1/s Paul Tauger
Paul Tauger